IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO

STATE OF OHIO,	:	APPEAL NO. C-160334 TRIAL NO. B-1506310
Plaintiff-Appellee,	:	
vs.	:	
JEFFERY HARRISON,	:	*JUDGMENT ENTRY.*
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Defendant-appellant Jeffery Harrison appeals his conviction for possession of cocaine, a felony of the third degree. We find no merit in his assignments of error and affirm the judgment of the trial court.

In his first and second assignments of error, Harrison argues that his guilty plea was not knowingly, intelligently, and voluntarily made, and that the trial court failed to comply with Crim.R. 11(C) before he entered his plea. We are not persuaded.

Contrary to Harrison's contention that the trial court was required to comply with Crim.R. 11(C) before Harrison entered his guilty plea, the rule governs the procedure that a trial court must follow before it *accepts* a guilty plea. *State v. Veney*, 120 Ohio St.3d 176, 2008-Ohio-5200, 897 N.E.2d 621, ¶ 8. In this case,

before accepting Harrison's plea, the trial court engaged in a detailed Crim.R. 11 colloquoy. It informed Harrison of the effect of the guilty plea, the nature of the charge against him, and the maximum penalty that he faced. *See* Crim.R. 11(C)(2). In addition, it strictly complied with Crim.R. 11(C)(2)(c) in informing Harrison that he was waiving his constitutional rights, including the rights to a jury trial, to confront witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to require the state to prove his guilt beyond a reasonable doubt at a trial at which he could not be compelled to testify against himself. *See Veney* at ¶ 13.

We conclude, as the trial court did, that Harrison's guilty plea was knowingly, intelligently, and voluntarily made. Therefore, we overrule the first and second assignments of error.

In his third assignment of error, Harrison, apparently relying on prior law, argues that the trial court erred by imposing a nonminimum prison term upon an offender with no history of imprisonment, without making findings as required by former R.C. 2929.14(B). In addition, he contends that the court imposed a maximum sentence without making the findings required by former R.C. 2929.14(C). However, these provisions of former R.C. 2929.14 relied upon by Harrison, which required findings for nonminimum and maximum sentences**,** were declared unconstitutional in *State v. Foster*, 109 Ohio St.3d 1, 2006-Ohio-856, 845 N.E.2d 470, and later explicitly repealed by 2011 Am.Sub.H.B. No. 86, Section 2. *State v. White*, 2013-Ohio-4225, 997 N.E.2d 629, ¶ 8 (1st Dist.). Therefore, trial courts are not required to make findings or give their reasons for imposing maximum or nonminimum sentences. *Id.*

Under R.C. 2953.08(G)(2), we may vacate or modify a felony sentence if we clearly and convincingly find that the record does not support the trial court's findings under relevant statutes or that the sentence is otherwise contrary to law. *State v. Marcum*, 146 Ohio St.3d 516, 2016-Ohio-1022, 59 N.E.3d 1231; *White* at ¶ 11. The sentence imposed in this case was within the statutory range. R.C. 2929.14(A)(3)(b). And we presume that the trial court properly considered the appropriate sentencing factors before imposing sentence. *State v. McGee*, 1st Dist. Hamilton No. C-150496, 2016-Ohio-7510, ¶ 33. Accordingly, we hold that the sentence was not contrary to law. *See Marcum* at ¶ 1. Therefore, we overrule the third assignment of error and affirm the judgment of the trial court.

Further, a certified copy of this judgment entry shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

CUNNINGHAM, P.J., ZAYAS and **MYERS, JJ.**

To the clerk:

Enter upon the journal of the court on March 3, 2017

per order of the court _____.
Presiding Judge